

LAKE COUNTY PLANNING BOARD
June 13, 2018
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Steve Rosso, Sigurd Jensen, Rick Cothorn, Lee Perrin, Janet Camel, Abigail Feiler, Frank Mutch

STAFF PRESENT: Jacob Feistner, Clint Evenson, Lita Fonda

Meeting was delayed due to Board of Adjustment meeting running late. Steve Rosso called the meeting to order at 8:12 p.m.

BASLER SUBSEQUENT MINOR OF SP-225 TRACT 1 (8:12 pm)

Clint Evenson presented the staff report. (See attachments to minutes in the June 2018 meeting file for staff report.)

On pg. 4 in item #3 near the end of the 6th line, Steve confirmed with Clint that 'Light Road' should change to 'Sunny Lane'. He asked for a review of road standard rules for width and surface. Jacob supplied that it should have a 60-foot right-of-way and a 20-foot driving surface. If it serviced 6 or more lots, it would be required to have a hard surface. Since it was less than 6, the surface could be gravel. It only had to be 20-feet wide. Clint explained the approval that listed 24-feet wide was under the previous subdivision regulations. Jacob said the County signed off that it met the standards at that time. Since then, it had grown in and become narrower.

Steve noticed that a lot was involved that had irrigation rights. A distinction between domestic water rights and irrigation/agricultural water rights wasn't being made and would be helpful. On pg. 6, in #4 this was domestic water. On pg. 9, item M, it said 32.6 acres of the property had water rights. Janet suggested taking out the word 'rights'. Steve asked since the compact hadn't been put in place yet, did that mean irrigation water rights were also in question? Janet said they were. It was all water. Steve pointed to a disclaimer that was supposed to go on the plat that it wasn't the County's fault if a well was drilled and you never got a water right. They didn't have a statement that the irrigation water might run through your property and maybe you could use it but you might not have a right to it. Should they have that? Jacob said that was something people tried to get out of and couldn't. It was a different issue. People were allotted a certain amount of water and they paid for it whether or not they used it. Lee said as far as water rights, if they drilled a well and filed for water rights, did they get that automatically? Frank said it was put on hold until the water compact was resolved. Jacob said that was why they had the statement to hold Lake County harmless if they drilled a well and couldn't get a right for it.

On pg. 11 under covenants in item R, Steve made corrections in the quote from the covenants. The first word of the quote changed from 'The' to 'These', and 'have or acquiring and right' changed to 'having or acquiring any right'. Janet turned to the bottom of pg. 6 in the 4th line, and changed 'State' to 'Federal government' since the State already approved the compact. On pg. 9 under Irrigation in item M, at the beginning of the 3rd line, 'rights' was removed. It was better to be more general.

Bruce Basler, the applicant, said nothing had been done to the road because he was waiting to see what the decision here would be. He already signed a maintenance agreement with the owner of subdivision SP-225. He already put \$40,000 of culverts on that road. The ones that had been there were substandard and had been okayed but they weren't. He spent winters in CA with his bees. They didn't have dust on the roads in the orchards there on unpaved roads. They laid down a mat of small gravel that didn't have any of the binder in it. Then they went over top with about 2 or 3 inches of 1-1/2 inch chip. They packed that in. The chips didn't squeeze out like round rocks did. If they packed it good enough, it was almost like pavement. There was no dust and it didn't chuck out. What existed there had to be smooth and the base packed before you did that. He brought that up to show his concern for the dust and his plan for that.

Rick asked how snow removal worked on that. Bruce said he plowed that road in and out every time they were home. You had to wait until the surface froze with gravel. Then you were okay. Steve gave his experience with the last couple of winters. They got snow when the ground wasn't frozen. He and his neighbors had to plow it and ended up moving some gravel and dirt. Bruce said his experience was that the skids they put on the plows weren't big enough and dug in. He described people who got a certain size disk off of farm machinery. It was dish-shaped. They'd put it there and it skidded over it. The other ones would dive into the gravel. These were his observations.

Bruce was taking a long time to do this. You probably heard how bees had problems. He didn't have money consistently every year. When there was money he'd do stuff. He wanted to subdivide these 5's off because he realized that agricultural ground was being gobbled up fast in the valley. They had their bee spots off in the corner or dry spot that a rancher wasn't using. That was the first place the rancher sold to make some running money. Instead of taking more ground out of agriculture for his son, this ground was paid for and they thought they'd try this, and then he'd be right on the place.

Lee asked if a subdivision allowed him to have more bees in this area. Bruce replied no. Once the shop was set up, he couldn't run bees on it. They'd know there was [honey] and so forth in that building. It was like his [building] in town. He kept bees 3 miles away from that. They knew it was there.

Frank asked about the culverts. Bruce said they were evidently approved by the County but they were pieced together with [inaudible] over the seams and so forth. He had them pulled out and put new ones in around 2010. The County then approved the ones he put in. He gave more detail on 3 locations where he replaced these.

Lee checked that Bruce was upgrading Sunny Lane. He was putting in chip rock for the first 120 feet and widening the road? Bruce said when he figured out how to do the base, everything would be peeled down, laid back out and watered. He gave more detail. The road had kind of a jog in the west side. He had to keep that in order to get semi-trucks in there to bring the honey out. Nothing stated it had to go straight. He noticed on the map it showed the chip seal didn't go out to the full width of the [inaudible] gravel that was there now. He confirmed for Steve that he

needed the chip seal to go out to the full width so he could get around the corners there to get onto Light Road.

Steve confirmed with Bruce that the issue with the road was the width. Jacob said the base was probably still there. The surface wasn't as wide as the regulations required. If Bruce did the work he spoke of, it would become compliant and possibly not require a variance. Bruce thought the variance was an 'in case' insurance deal. Steve said a variance had to be based on a hardship. Right now, a hardship hadn't been identified. Bruce said if he had to pave the full length at 24 feet, there would be a hardship. Steve clarified that financial was definitely a hardship but not one the Board could use to justify a variance. If there wasn't a requirement of a hard surface and if gravel was okay, was Bruce saying he didn't need a variance? Bruce said he wouldn't. Jacob said the only regulation they were concerned about with hard surface was if it had an approach to a paved or chip-sealed road, it had to have 50 feet. With what Bruce was proposing, they felt that was covered. The width was the concern.

Bruce expressed concern about irrigation and taking the word 'rights' out. Janet said it still said irrigation water. Because the rights hadn't been adjudicated and approved by the Federal government, there was no guaranteed water right at this time. Existing water uses would be approved if the compact was approved by the Federal government. Bruce expressed further concern. Once someone signed off, you couldn't get this water back. Staff, the Board and Earl Hanneman (agent) discussed possible rewording, and concluded it worked just to remove the word "rights", and leaving 'the property has irrigation water'. Steve explained to Bruce that they were making the document accurate; they weren't taking away a right.

Earl Hanneman, the applicant's agent from Carstens and Associates, handed out comments regarding the staff report and went over those. (See attachments to minutes in the June 2018 meeting file for handout.)

Steve asked if staff agreed with the first comment on the second page of the handout, regarding whether or not WUI (Wildland Urban Interface) was applicable or not. Jacob said they did not. Earl said the surrounding properties were all agriculture and therefore it didn't border wildland. Clint pointed to wetlands to the northeast around the area. Jacob added there were uncultivated lands around the fence area. Staff looked at that specifically when they were out there. They looked at the definition before they considered it a WUI. Rick asked how large this was. Jacob replied the Pablo Reservoir was a half mile away.

Earl continued with the remaining items on the handout. Possible redundancy of conditions #8 with #28 garnered discussion. Steve observed that one talked about the approach permit onto Light Road. The other talked about approach permits prior to developing new external approaches or upgrading existing approaches to County roads. Jacob said Bruce was going to widen the approach, which was a good thing. They wanted to make sure if he needed a permit from the Road Dept. that he got one. Down the road, if there were more improvements, another would be needed. He suggested they could add to #8 the option to get a comment that he didn't need a permit.

Earl asked for clarification on condition #18. Did they need to file irrigation plans with FIIP (Flathead Indian Irrigation Project)? Janet said it wouldn't hurt. It would give them more information so they could maintain it. Jacob said the key thing was [FIIP] had to approve them.

Earl had other comments pertaining to WUI. Steve mentioned they still needed a fire control plan. There were other fire control plans that could function as examples. Jacob said it was a one-page deal.

Public comment opened: None present. *Public comment closed.*

Steve thought it sounded like they didn't need the variance and that they were going to need to widen the road to 20 feet, which the applicant planned to do anyway. They needed to meet the [current] subdivision regulations (20 feet) rather than the old approval (24 feet). Jacob said they would need to create a condition that required bringing the road up to standards since they weren't getting a variance. It would be good to be more specific, to bring Sunny Lane up to County road standards, to include a 20-foot driving surface.

Steve asked if a condition was included to require that they have setbacks and heights. Jacob pointed to conditions #23 and #24. To make those consistent, Jacob said #23 could end after '30 feet' and the Board agreed. Steve compared to the covenants to see that these were consistent.

Steve and Jacob agreed that they didn't need to do more with the comments on the handout from Carstens. They thought those were okay.

Jacob turned to the recommendation at the bottom of pg. 23, which might not be clear. Staff and Board members wordsmithed it to clarify it. Clint read the revised first two sentences as 'This recommendation is for the approval for the creation of two additional lots for residential and agricultural purposes. Three total lots to be used for single-family residential purposes and agricultural purposes.' Steve confirmed it would be followed by the last two sentences of that paragraph.

Rick asked about housekeeping with the variance that wasn't going to be granted. Steve agreed they were close to where they'd have to make a motion.

On pg. 13 in 1.c, Steve reduced 'Permit Permit' to 'Permit'. He asked if 1.h needed one or two statements and whether 'domestic' should be added in front of 'water rights'. Janet thought it was all water rights and no addition was necessary. Jacob agreed. On pg. 15 in the top #2 in the 3rd line from the bottom, 'this is information is' changed to 'this information is'. Steve asked if these conditions reflected the findings about the mail service, schools and fire prevention plan. Jacob said yes.

Clint asked if the Board had a possible condition for bringing Sunny Lane to County road standards. Jacob said he had something.

Abigail asked about the wells. Steve clarified that 43 gallons per minute was an average rather than a total. Bruce said he drilled a well on the existing property. It was on the map. Abigail

asked if Bruce created the Lloyd subdivision or if he purchased a tract. Bruce replied he purchased it from Zon Lloyd. He gave more detail, including why a family transfer was not an option.

Steve asked if a motion to deny the variance was needed. Jacob suggested the applicant could withdraw it. Bruce thought that was simplest. Steve reiterated that the applicant had withdrawn the variance request.

Motion made by Steve Rosso, and seconded by Rick Cothorn, to recommend approval with the changes suggested in the findings of fact and conditions. Motion carried, all in favor.

MINUTES (9:27 pm)

February 14, 2018 minutes were amended as follows.

- Steve: Pg. 2, second paragraph, 3rd line: 'more than about' changed to 'more than others about'.
Pg. 3, last paragraph, 1st line: 'to' removed after 'challenge'.
Pg. 5, last paragraph, end of 11th line: 'approve' changed to 'improve'.
Pg. 6, 3rd paragraph, end of 6th line: 'commissioners' changed to 'commissioner'.
Janet: Pg. 10, 3rd paragraph, 6th line from the end: 'subdivision' changed to 'subdivisions'.
Pg. 10, 3rd paragraph, 2nd line from the end: 'investment' changed to 'investments'.
Steve: Pg. 11, 1st paragraph, end of next-to-last line: added 'was'.
Pg. 14, 3rd paragraph, 5th line from the end: 'DRM' changed to 'DMR'.
Pg. 17, 3rd paragraph, 2nd line: 'Commission' changed to 'Commissioners'.
Pg. 17, 3rd paragraph, 5th line: 'in the time' changed to 'in the meantime'.

Motion by Frank Mutch, and seconded by Rick Cothorn, to approve the Feb. 14, 2018 meeting minutes as amended. Motion carried, all in favor.

April 11, 2108 minutes were amended as follows.

- Steve: Pg. 1, 2nd line from the page bottom: Was '28.9-foot' correct? Others confirmed. (No change.)
Pg. 2, 3rd paragraph, 1st line: 'M.Parkland and' changed to section M. Parkland, and'.
Pg. 2, 6th paragraph, last line: added 'structure' before 'setback'.
Pg. 10, middle paragraph, 9th line: 'asking that to' changed to 'asking to'.
Pg. 12, second line: 'at' after 'proposed' was eliminated.
Pg. 12, next to last paragraph, end of 8th line: 'addresses' changed to 'addressed'.
Steve with Frank's assistance: Pg. 14, 3rd paragraph, last line: 'know think' changed to 'think'.
Pg. 16, 2nd paragraph, 2nd line: 'Commissions' changed to 'Commissioners'.
Janet: Pg. 16, 2nd paragraph, 7th line: eliminated 'expressed that they'.
Pg. 16, 2nd paragraph, end of 7th line: added 'in' after 'and'.
Steve: Pg. 17, last line of page: 'neighboring land' changed to 'neighboring lands'.
Janet: Pg. 18, top line: '13 lands' changed to '13 years'.
Pg. 18, 6th line from the top: Add 'resource protection' between 'the' and 'investment'.
Pg. 18, 7th line from the top: 'buffer zone' changed to 'wilderness buffer zone'.
Pg. 18, last full line of 1st paragraph: 'It was too much' changed to 'There was too much'.
Steve: Pg. 18, 1st word of 2nd paragraph: 'Rich' corrected to 'Rick'.
Pg. 18, last full line of 2nd paragraph: Removed 'companies or'.

Pg. 19, 1st paragraph, 6th line: 'to building' changed to 'to build'.

Motion by Lee Perrin, and seconded by Janet Camel, to approve the April 11, 2018 meeting minutes as amended. Motion carried, all in favor.

OTHER BUSINESS (9:47 pm)

Discussion occurred about recent meeting overlap due to two recent overruns by Board of Adjustment.

Steve Rosso, chair, adjourned the meeting at 9:47 pm.